

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

PAUL DALE WOLFE, #215433,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO. 2:05-CV-742-D
))	
J. C. GILES, et al.,)	
)	
Respondents.)	

ORDER

In their second supplemental answer filed with this court on November 21, 2005, the respondents assert that the petitioner, Paul Dale Wolfe, has failed to exhaust state remedies with respect to the claims presented to this court. Specifically, the respondents maintain that Wolfe has a Rule 32 petition pending before the Circuit Court of Montgomery County, Alabama in which he challenges his robbery convictions and the sentences imposed for such convictions.¹ On December 1, 2005, the petitioner filed a response to this answer in which he asserts “that not only did the [Circuit Court of Montgomery County] receive the Habeas Corpus petition that was to be construed as a Rule 32, but the [court] denied said Petition, on the date of June 27th 2005.” *December 1, 2005 Response* at 1. Wolfe therefore argues that his “State Remedies [sic] were in fact exhausted.” *Id.* at 2. Accordingly, it is

¹This petition was initially filed in the Circuit Court of Barbour County, Alabama as a petition for habeas corpus relief. In accordance with state law, the Barbour County court construed the petition as a petition for post-conviction relief filed under Rule 32 of the Alabama Rules of Criminal Procedure. The evidentiary materials submitted by the respondents indicate that the Clerk of Barbour County transferred the Rule 32 petition to the Circuit Court of Montgomery County on November 3, 2005. These materials further indicate that this Rule 32 petition remains pending before the Circuit Court of Montgomery County.

ORDERED that on or before December 15, 2005 the respondents shall file a supplemental answer which addresses the petitioner's argument that his state remedies have been exhausted. In support of this answer, the respondents shall advise whether Wolfe has any petition challenging his robbery convictions pending before the Circuit Court of Montgomery County, Alabama.

DONE, this 6th day of December, 2005.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
UNITED STATES MAGISTRATE JUDGE